

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

ANGELA CHRISTINE BAKOS,)	
)	
Plaintiff,)	
)	
v.)	CV 118-119
)	
NANCY A. BERRYHILL, Deputy)	
Commissioner for Operations of the)	
Social Security Administration, performing)	
the duties and functions not reserved to the)	
Commissioner of Social Security,)	
)	
Defendant.)	

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Before the Court is Plaintiff’s motion for attorneys’ fees pursuant to the Equal Access to Justice Act (“EAJA”). (Doc. no. 17.) For the reasons set forth below, the Court **REPORTS** and **RECOMMENDS** Plaintiff’s motion for attorneys’ fees be **GRANTED**, and Plaintiff be **AWARDED** attorneys’ fees in the amount of \$4,680.00 pursuant to the EAJA.

I. BACKGROUND

On March 5, 2019, Chief United States District Judge J. Randal Hall granted a reversal and remand pursuant to sentence four of 42 U.S.C. § 405(g) in the above-captioned social security appeal, and a judgment was entered in Plaintiff’s favor. (Doc. nos. 15, 16.) Plaintiff now moves for \$4,680.00 in attorneys’ fees under the EAJA and requests the fees be payable directly to Plaintiff’s counsel. (Doc. nos. 17, 20.) The Deputy Commissioner does not object to the award of attorney’s fees, but she does request the attorney’s fees be payable

to Plaintiff only. (Doc. no. 19.)

II. DISCUSSION

In Astrue v. Ratliff, 560 U.S. 586, 589 (2010), the Supreme Court held, based on the “plain text” of 28 U.S.C. § 2412(d), that an EAJA award “is payable to the litigant and is therefore subject to a Government offset to satisfy a pre-existing debt that the litigant owes the United States.” Based on Ratliff, the proper course is to “award the EAJA fees directly to Plaintiff as the prevailing party and remain silent regarding the direction of payment of those fees.” Bostic v. Comm’r of Soc. Sec., 858 F. Supp. 2d 1301, 1306 (M.D. Fla. 2011). Indeed, this approach has been followed in this District. See Shank v. Berryhill, CV 116-030, doc. no. 20 (S.D. Ga. May 24, 2017) (awarding EAJA fees to plaintiff without directing payment to counsel despite plaintiff’s assignment of award to counsel); Brown v. Astrue, CV 411-152, doc. no. 24 (S.D. Ga. Mar. 4, 2013) (same); Scott v. Colvin, CV 313-004, doc. no. 26 (S.D. Ga. Nov. 11, 2013) (same).

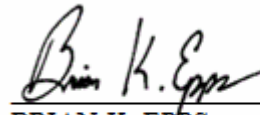
In accord with this practice, the Court awards the EAJA fees to Plaintiff, subject to offset by any debt owed by Plaintiff to the United States. The Court leaves it “to the discretion of the government to accept Plaintiff’s assignment of EAJA Fees and pay fees directly to Plaintiff[’s] counsel after a determination that Plaintiff does not owe a federal debt.” Bostic, 858 F. Supp. 2d at 1306; see also Robinson v. Comm’r of Soc. Sec., No. 8:13-CV-2073-T-23TGW, 2015 WL 176027, at *1 (M.D. Fla. Jan. 13, 2015) (allowing EAJA fees “to be paid by virtue of a fee assignment, to plaintiff’s counsel by the defendant if the plaintiff does not owe a debt to the United States Department of the Treasury”); Griffin v. Astrue, 1:10cv115, 2010 WL 5211548, at *3 (W.D.N.C. Dec. 16, 2010) (“There is nothing in Ratliff to indicate that it is intended to divest the government of its discretion to enter into

direct payment arrangements where there is no debt to the government or where funds remain after satisfaction of such debt.”).

III. CONCLUSION

The Court **REPORTS** and **RECOMMENDS** Plaintiff’s motions for attorneys’ fees be **GRANTED**, (doc. no. 17), and Plaintiff be **AWARDED** \$4,680.00 in attorneys’ fees.

SO REPORTED and RECOMMENDED this 7th day of May, 2019, at Augusta, Georgia.

A handwritten signature in black ink, appearing to read "Brian K. Epps", is written over a horizontal line.

BRIAN K. EPPS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA